

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF NEW MEXICO**

JAVIER ROCHA-ALONSO,

Petitioner,

v.

No. 23-cv-0906-MIS-SCY  
No. 22-cr-1568-MIS-SCY

UNITED STATES OF AMERICA,

Respondent.

**ORDER REGARDING EXTENSION AND COUNSEL**

This matter is before the Court on Petitioner’s *pro se* Letter-Motion to Extend Time and Appoint Counsel (Doc. 10) (Motion). Petitioner seeks an unspecified extension of time to file a reply brief in this 28 U.S.C. § 2255 proceeding. As grounds for the extension, Petitioner states he has limited access to the law library based on intermittent lockdowns at FCI Herlong. The Court finds good cause to grant an extension. The current deadline to file an optional reply brief is June 6, 2024. The Court will extend that deadline by six weeks, *i.e.*, through July 18, 2024.

Petitioner also asks the Court to reconsider its Order Denying Motion to Appoint Habeas Counsel (Doc. 5). The Court declined to appoint habeas counsel after considering “the merits of ... [Petitioner’s] claims, the nature of the factual issues raised in the claims, ... [Petitioner’s] ability to present his claims, and the complexity of the legal issues....” Doc. 5 (quoting *Williams v. Meese*, 926 F.2d 994, 996 (10th Cir. 1991)). Petitioner now argues English is his second language; he lacks knowledge of the law; and his claims are meritorious. *See* Doc. 10 at 1-2. Having considered the record and Petitioner’s submissions, the Court is not convinced he is wholly unable to file an optional reply. Petitioner makes cogent arguments about why his

counsel was ineffective, despite the above-mentioned challenges, and he has not pointed to any extra-record documents that only counsel could produce or obtain. To the extent Petitioner seeks counsel to file a motion for compassionate release under 18 U.S.C. § 3582, the Court has already explained it will not consider that issue in this habeas proceeding. *See* Doc. 5 at 1-2. Petitioner must raise that issue in the criminal case, No. 22-cr-1568 MIS-SCY. Accordingly, the Court will deny the Motion without prejudice, to the extent Petitioner's seeks the appointment of counsel. The Court will *sua sponte* appoint counsel if a hearing is necessary on any claim.

**IT IS ORDERED** that Plaintiff's Letter-Motion to Extend Time and Appoint Counsel (CV Doc. 10) is **GRANTED, in part, and DENIED without prejudice, in part**, as set forth above; and the deadline to file an optional reply brief is extended through **July 18, 2024**.

  
UNITED STATES MAGISTRATE JUDGE